

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MISSOURI

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|-------------------------------|---|--|
| In re: |) | Case No. 09-44415-705 |
| |) | |
| EMIL MERGEL and KATHY MERGEL, |) | Chapter 7 |
| |) | |
| Debtors. |) | MOTION NO. _____ |
| |) | |
| NATIONAL CITY BANK, N.A., |) | |
| |) | |
| Movant, |) | Hearing Date: June 10, 2009 |
| |) | Hearing Time: 9:30 a.m. |
| v. |) | Hearing Location: Courtroom <u>7-South</u> |
| |) | Thomas F. Eagleton Courthouse |
| EMIL MERGEL and KATHY MERGEL, |) | 111 South Tenth Street |
| Debtors, |) | St. Louis, Missouri 63102 |
| and |) | |
| CHARLES W. RISKE, |) | MOVANT WAIVES 30 DAY HEARING |
| Trustee, |) | |
| |) | RESPONSE DEADLINE: <u>June 3, 2009</u> |
| Respondents. |) | |

MOTION TO LIFT AUTOMATIC STAY AND
NOTICE OF HEARING THEREON

National City Bank, N.A. ("National") states as follows:

PLEASE TAKE NOTICE that National City Bank, N.A. will call up this Motion before the judge assigned to this case on June 10, 2009, at 9:30 a.m., in Courtroom 7-South, U.S. Bankruptcy Court, Thomas F. Eagleton Courthouse, 111 S. 10th Street, St. Louis, Missouri, or as soon thereafter as the same may be heard.

WARNING: Any response or objection must be filed with the Court by June 3, 2009. A copy must be promptly served upon the undersigned. Failure to file a timely response may result in the Court granting the relief requested prior to the hearing date.

1. National is the owner and holder of a certain Commercial Security Agreement ("Agreement") that was executed by Debtors Emil Mergel and Kathy Mergel ("Debtors").

A copy of this document is marked as Exhibit 1.

2. The Agreement granted National a security interest in the following: 2007 Chevrolet Express with VIN# 1GCFG15X571142012 and all accessories therein ("Property").

3. The security interest in the Property was duly perfected by the filing of a Notice of Lien. A copy of this document is marked as Exhibit 2.

4. The total amount of National's claim in this case is \$ 17,946.00.

5. The Property is worth approximately \$ 9,775.00.

6. National is entitled to relief from the automatic stay for the following reasons: Debtors are delinquent in payments to National and Debtors may have failed to maintain adequate insurance of National's interest in the Property.

7. There is no equity in the Property and it is not needed for an effective reorganization.

8. National is entitled to immediate enforcement of an Order lifting the stay because the Property is depreciating and the lack of insurance exposes National to complete loss.

WHEREFORE, National City Bank, N.A. prays that this Court lift the automatic stay as to the Property pursuant to 11 U.S.C. § 362(d), make its order effective immediately pursuant to Rule 4001 (a)(3), and for such other relief as the Court deems just and proper.

/s/ David G. Wasinger
David G. Wasinger, EDMO #4646, MoBar #38253
James S. Cole, EDMO #2851, MoBar #26787
MURPHY WASINGER, L.C.
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Attorneys for National City Bank, N.A.

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was served electronically upon the Debtors' counsel, and the U.S. Trustee, according to the Court's electronic notice procedures, and that a further copy was mailed by U.S. Mail, postage prepaid, this 21st day of May, 2009, to:

James B. Day
Attorney for Debtors
13321 N. Outer Forty Road, Ste. 600
Chesterfield, MO 63017

Charles W. Riske, Trustee
231 S. Bemiston, Ste. 1220
St. Louis, MO 63105

Emil Mergel and
Kathy Mergel
1604 Timber Forest Court
Ballwin, MO 63011

/s/ David G. Wasinger

IN THE UNITED STATES BANKRUPTCY COURT FOR
THE EASTERN DISTRICT OF MISSOURI

In re:) Case No. 09-44415-705
)
EMIL MERGEL and KATHY MERGEL,) Chapter 7
)
Debtors.)
)
NATIONAL CITY BANK,)
)
Movant.)

SUMMARY OF EXHIBITS AND CERTIFICATE OF SERVICE

The following exhibits in reference to the Motion For Relief From Automatic Stay filed by National City Bank ("National") have been sent by first-class mail to the Trustee and are available to any other party upon request:

1. Commercial Security Agreement dated March 12, 2008; and
2. Notice of Lien on a 2007 Chevrolet Express showing lien perfection of National City Bank.

/s/ David G. Wasinger
David G. Wasinger, EDMO #4646, MoBar #38253
James S. Cole, EDMO #2851, MoBar #26787
Attorneys for National City Bank

Copy of the above served this 21st day of May, 2009, on:
James B. Day, Attorney for Debtors
Charles W. Riske, Trustee
Office of the U.S. Trustee
Emil Mergel and Kathy Mergel